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Establishment of the International Criminal Court

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Report of the Secretary-General**

Summary

Following the entry into force of the Rome Statute of the International Criminal Court on 1 July 2002, the Preparatory Commission of the International Criminal Court held its final session and transmitted its report to the Assembly of States Parties to the Rome Statute for consideration at its first meeting, held in September 2002. Arrangements were put in place in the Secretariat in order to receive voluntary contributions to defray the costs of the provision of secretariat assistance to the Assembly of States Parties by the United Nations Secretariat. In addition, the Assembly of States Parties subsequently decided to request that the Secretariat continue to carry out the secretariat functions of the Assembly in 2003, on a provisional basis. The Assembly also decided on its schedule of meetings for 2003.

* A/57/150.

** The present report was submitted after the established deadline to reflect the activities of the first session of the Assembly of States Parties to the Rome Statute, held from 3 to 10 September 2002.

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I. Introduction

1. The present report has been prepared so as to recall the actions taken in 2002 relating to the establishment of the International Criminal Court, including the convening of the final session of the Preparatory Commission for the International Criminal Court and the holding of the first session of the Assembly of States Parties following the entry into force of the Rome Statute of the International Criminal Court.

2. The attention of Governments is drawn to several actions taken in relation to the provision of Secretariat assistance to the Assembly of States Parties in 2002, as well as to the decisions of the Assembly regarding the provisional arrangements for its secretariat in 2003.

II. Work of the Preparatory Commission for the International Criminal Court

3. The Preparatory Commission for the International Criminal Court was established in accordance with resolution F adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on 17 July 1998. The Preparatory Commission held 10 sessions[1] during the period from 1999 to 2002, in accordance with General Assembly resolutions 53/105 of 8 December 1998, 54/105 of 9 December 1999, 55/155 of 12 December 2000 and 56/85 of 12 December 2001 with a view to carrying out its mandate of preparing proposals for practical arrangements for the establishment of the Court and its coming into operation. The sessions of the Preparatory Commission were open to representatives of States which had signed the Final Act of the United Nations Diplomatic Conference of Plenipotentiaries, and other States which had been invited to participate in the Conference.

4. In 2002, the Preparatory Commission held its ninth and tenth sessions, from 8 to 19 April and 1 to 12 July, respectively. At its tenth, and final, session, the Preparatory Commission decided to transmit to the Assembly of States Parties its report,[2] containing, inter alia, the rules of procedure and evidence; the elements of crimes; a relationship agreement between the Court and the United Nations; the basic principles governing a headquarters agreement to be negotiated between the Court and the host country; the financial regulations and rules; an agreement on the privileges and immunities of the Court; a budget for the first financial year; the rules of procedure of the Assembly of States Parties; and a number of other draft resolutions and recommendations.

III. Entry into force of the Rome Statute

5. The necessary threshold for the entry into force of the Rome Statute of the International Criminal Court was reached on 11 April 2002. A treaty ceremony was held at United Nations Headquarters on that day, at which time the representatives of 10 Member States simultaneously deposited their respective instruments of ratification of the Rome Statute, bringing the number of instruments of ratification, acceptance, approval or accession deposited with the Secretary-General above the required level of 60.

6. The Rome Statute entered into force on 1 July 2002, in accordance with its article 126.

IV. Convening of the first session of the Assembly of States Parties

7. Following the entry into force of the Rome Statute, the first session of the Assembly of States Parties was convened at United Nations Headquarters, from 3 to 10 September 2002, in accordance with article 112, paragraph 1, of the Rome Statute, as well as General Assembly resolution 56/85 and the decision of the Preparatory Commission at its 41st meeting, on 8 July 2002.

8. At its 3rd meeting, on 9 September 2002, the Assembly of States Parties adopted all of the texts, including several international agreements, as well as several resolutions and decisions, referred to it by the Preparatory Commission.

V. Provision of Secretariat functions in 2002

9. In its resolution 56/85, the General Assembly requested the Secretary-General to make available to the Preparatory Commission secretariat services,

including the preparation of working documents if so requested by the Commission, to enable it to perform its functions.

10. Further, the Assembly, anticipating the entry into force of the Rome Statute during 2002, requested the Secretary-General to undertake the preparations necessary to convene, in accordance with article 112, paragraph 1, of the Rome Statute, the meeting of the Assembly of States Parties to be held at United Nations Headquarters upon the entry into force of the Statute in accordance with its article 126, and decided that expenses that might accrue to the United Nations as a result of the implementation of such a request, as well as expenses resulting from the provision of facilities and services for the meeting of the Assembly of States Parties and any consequent follow-up should be paid in advance to the Organization, for which an appropriate mechanism would be set up in the near future.

11. In March 2002, the Secretary-General circulated a note verbale to all Member States announcing that, in consultation with the Bureau of the Preparatory Commission, a trust fund had been established for the purpose of defraying the costs that accrue to the United Nations arising from the above-mentioned request.

VI. Provision of secretariat functions to the Assembly of States Parties in 2003

12. The Assembly of States Parties, at its 3rd meeting, on 9 September 2002, adopted the following resolution concerning the provisional arrangements for the secretariat of the Assembly of States Parties:

"*The Assembly of States Parties*,

"*Bearing in mind* article 112 of the Rome Statute of the International Criminal Court, regarding the Assembly of States Parties,

"*Taking note* of rules 6, 9, 10, 11, 14, 24, 28, 37, 41, 42, 48, 56, 62 and 95 of its rules of procedure, providing also specific functions for the secretariat of the Assembly of States Parties,

"*Desiring* to provide adequate secretariat services for the Assembly of States Parties,

"*Noting* that it is difficult to anticipate at this early stage all the functions of its secretariat,

"*Convinced* of the need to maintain continuity in the work of the Assembly of States Parties,

"1. *Decides* that arrangements shall be made for the Secretariat of the United Nations to continue to carry out the secretariat functions of the Assembly of States Parties on a provisional basis;

"2. *Decides also* that such arrangements shall be made on the basis of full reimbursement to the United Nations of such expenses that might accrue to the United Nations;

"3. *Decides further* to request the Secretary-General to continue carrying out the secretariat functions of the Assembly of States Parties on a provisional basis and to inform the Assembly of States Parties of the detailed arrangements thereon at its next session."

13. At the same meeting, the Assembly of States Parties decided that its first session would be resumed twice in 2003, that is, from 3 to 7 February 2003 and from 21 to 23 April 2003, and that it would hold its second session from 8 to 12 September 2003. It also decided that its Committee on Budget and Finance would meet from 4 to 8 August 2003. All of those meetings are to be held at United Nations Headquarters.

14. Provision for the envisaged schedule of meetings of the Assembly of States Parties in 2003 has been made in the budget for the first financial period of the Court, which was adopted by the Assembly at its 2nd meeting, on 3 September 2002. The cost estimates for the secretariat servicing functions of the Assembly of States Parties in 2003, as established in the budget for the first financial period, are based on the understanding that the above-mentioned meetings of the Assembly of States Parties will take place at United Nations Headquarters.

15. A communication from the President of the Assembly of States Parties has since been received by the Secretary-General, bringing to his attention the request of the Assembly that the United Nations Secretariat continue to provide the secretariat functions for the Assembly in 2003 on a provisional basis, and that the meetings of the Assembly in 2003 be held at United Nations Headquarters.

Notes

[1] For summaries of the proceedings of the Preparatory Commission at its first to tenth sessions, see: PCNICC/1999/L.3/Rev.1 (first session, 16 to 26 February 1999); PCNICC/1999/L.4/Rev.1/Corr.1 (second session, 26 July to 13 August 1999); PCNICC/1999/L.5/Rev.1 and Add.1-2 (first and second sessions, as well as third session, 29 November to 17 December 1999); PCNICC/2000/L.1/Rev.1 and Add.12 (fourth session, 13 to 31 March 2000); PCNICC/2000/L.3/Rev.1 (fifth session, 12 to 30 June 2000); PCNICC/2000/L.4/Rev.1 and Add. 1-4 and Add.3/Corr.1-2 (sixth session, 27 November to 8 December 2000); PCNICC/2001/L.1/Rev.1 and Add.1-3 (seventh session, 26 February to 9 March 2001); PCNICC/2001/L.3/Rev.1 and Add.1 (eighth session, 24 September to 5 October 2001); PCNICC/2002/L.1/Rev.1 and Add.1-2 (ninth session, 8 to 19 April 2002); and PCNICC/2002/L.4/Rev.1 (tenth session, 1 to 12 July 2002).

[2] PCNICC/2000/1 and Add.1-2, PCNICC/2001/1 and Add.1, Add.2 and Corr.1 and Add.3-4, PCNICC/2002/1 and Add 1-2 and PCNICC/2002/2/ and Add.1-3; see also PCNICC/2002/3.